

REMARKS

This Amendment is responsive to the Office Action dated January 19, 2006. Applicant has amended claim 12, and canceled claims 2, 10, 19, 27, 31, 33-36 and 39. Claims 5, 13-15, 17, 20, 21, 23-25 and 30 were previously canceled. Claims 1, 3, 4, 6-9, 11, 12, 16, 18, 22, 26, 28, 29, 32, 37 and 38 are now pending.

In the Office Action, the Examiner rejected all pending claims under 35 U.S.C. 102(e) as being anticipated by Haritaoglu (InfoScope: Link from Real World to Digital Information Space). Since the Haritaoglu reference is not an application for a patent, it appears that the Examiner's reference to 35 U.S.C. 102(e) is in error. For purposes of this response, Applicant is assuming that the Examiner is citing the Haritaoglu reference under 35 U.S.C. 102(a).

The Examiner has not established Haritaoglu as Prior Art

As a preliminary matter, the prior art status of the Haritaoglu reference has not been established on the evidentiary record. In the Office Action, the Examiner indicated a prior art date of "September 2001" for this reference. However, "September 2001" does not appear anywhere on the Haritaoglu reference, and "September 2001" is not an actual date of publication.

Applicant requests the Examiner to articulate (on the written record in accordance with 37 C.F.R. 1.2) how the Examiner established the prior art status of the Haritaoglu reference. Applicant again notes that "September 2001" is not an actual date of publication. Insofar as the Examiner is relying on a publication date of the Haritaoglu reference sometime in September of 2001, Applicant requests clarification of the actual date, i.e., the actual day of publication of this reference and evidence thereof.

For purposes of this response, Applicant conducted an independent inquiry into the unknown publication date of the Haritaoglu reference. While not admitting any prior art status of this reference, Applicant notes that the Haritaoglu reference appears to have been first published at the proceedings of the *UbiComp 2001: Ubiquitous Computing: Third International Conference*, which was held in Atlanta, Georgia, USA, between September 30, 2001 and October 2, 2001.

Accordingly, for purposes of this response, Applicant is assuming that the earliest publication of the Haritaoglu reference was on or after ***September 30, 2001***. Again, however, by

virtue of Applicants independent query, Applicant is in no way admitting the prior art status of this reference, and requests the Examiner's clarification on the actual publication date of this reference.

Declaration Under 37 C.F.R. 1.131 Submitted With This Response

A Rule 131 Declaration by the inventor, Robert D. Palmquist, is being submitted with this response. The Declaration specifically applies with respect to claims 1, 3, 4, 6, 7, 9, 16, 18, 22, 26, 28, 29, 32, 37 and 38. The Declaration establishes the following:

- 1) Robert D. Palmquist conceived of the claimed invention recited in claims 1, 3, 4, 6, 7, 9, 16, 18, 22, 26, 28, 29, 32, 37 and 38 prior to September 30, 2001, which for purposes of this response, is being assumed as the publication date of the Haritaoglu reference.
- 2) Robert D. Palmquist, and other Speechgear employees actually reduced to practice the claimed inventions of claims 1, 3, 4, 16, 18, 26, 28, 29, 32 and 37 on or before November 26, 2001.
- 3) Robert D. Palmquist, and other Speechgear employees worked diligently between September 30, 2001 and November 26, 2001 to actually reduce the inventions of claims 1, 3, 4, 16, 18, 26, 28, 29, 32 and 37 to practice.
- 4) The filing date of the current application (December 21, 2001) provides a constructive reduction to practice of the inventions recited in dependent claims 6, 7, 9, 22 and 38.
- 5) Robert D. Palmquist, and other Speechgear employees worked diligently between September 30, 2001 and December 21 toward the constructive reduction to practice of the inventions of claims 6, 7, 9, 22 and 38.

On the basis of the Declaration, Applicant submits the claimed invention was clearly conceived prior to the publication date of the Haritaoglu reference, and diligently reduced to practice from a time prior to the publication date of the Haritaoglu reference. As further proof of diligence, Applicant also refers the Examiner to the Rule 131 Declaration previously filed in this application, which established attorney diligence for at least a period prior to December 2001 to the filing date on December 21, 2001.

With respect to the remaining claims 8 and 11 that are not currently covered by the attached Declaration, Applicant traverses the rejections and submits that the Haritaoglu reference does not disclose or suggest the specific features of these dependent claims.

Claim 8 is dependent upon claims 1 and 6 and further requires displaying one of the translation of the first text and the translation of the second text in response to a command from a user. These specific features are not disclosed or suggested in the Haritaoglu reference.

Claim 11 is dependent upon claim 1 and further requires prompting a user to provide additional information comprising at least one of an account number, a password, an identification of the first language, and identification of the second language, a dictionary and a server location. These specific features are also lacking from the Haritaoglu reference. Accordingly the rejections of claims 8 and 11 are improper under 35 U.S.C. 102(a) since the Haritaoglu reference does not disclose each and every feature of these claims.

Conclusion

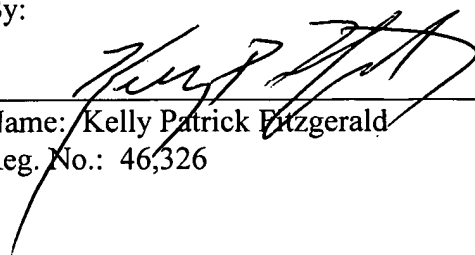
Applicant does not acquiesce in any of the Examiner's rejections, nor any characterization of the scope and content of the Haritaoglu reference. In view of the Declaration and Exhibits, however, Applicant respectfully submits that the Haritaoglu reference does not qualify as prior art to claims 1, 3, 4, 6, 7, 9, 16, 18, 22, 26, 28, 29, 32, 37 and 38. Also, the specific features of claims 8 and 11 are not disclosed by the Haritaoglu reference. For these reasons, Applicant requests that all pending rejections be withdrawn.

All claims in this application are in condition for allowance. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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May 15, 2006
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